

**THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

2019 AUG -7 P 2: 24

U.S. DISTRICT COURT
N.D. OF ALABAMA

UNITED STATES OF AMERICA, et al.)
ex rel. **BROOKS WALLACE,**)
ROBERT FARLEY and)
MANUEL FUENTES)

Plaintiffs,

v.

EXACTECH, INC.

Defendant.

**CIVIL ACTION NUMBER
2:18-CV-01010-MHH**

*****FILED UNDER SEAL*****

**UNITED STATES OF AMERICA'S AND PLAINTIFF STATES' NOTICE OF
ELECTION TO DECLINE INTERVENTION**

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the United States (the "Government") notifies the Court of its decision not to intervene in this action.

Although the United States declines to intervene, it respectfully refers the Court to 31 U.S.C. § 3730(b)(1), which allows the Relators to maintain the action in the name of the United States; providing, however, that the "action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting." *Id.*

Therefore, the United States requests that, should either the Relators or the Defendants propose that this action be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the United States before ruling or granting its approval.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings filed in this action be served upon the United States. The United States also requests

that orders issued by the Court be sent to the Government's counsel. The United States reserves its right to order any deposition transcripts and to intervene in this action, for good cause, at a later date.

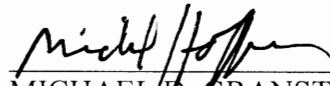
The United States requests that only the Complaint, this Notice, and the Court's Order be unsealed and served upon the Defendants. All other contents of the Court's file in this matter (including, but not limited to, any applications filed by the United States for an extension of the sixty-day investigative period or for any other reason, oppositions filed by the United States in response to the Relators' motions, reply briefs, memoranda, and supporting documents) should remain under seal and not be made public or served upon the Defendants.

The Complaint includes counts under False Claims Act equivalent statutes in the States of California, Colorado, Connecticut, Florida, Georgia, Hawaii, Illinois, Indiana, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Rhode Island, Tennessee, Texas, Vermont, Virginia, and Washington and the District of Columbia (the "Plaintiff States"). While the United States does not represent the Plaintiff States in this matter, the Florida Assistant Attorney General acting on behalf of the Plaintiff States has requested that the United States notify the Court of the Plaintiff States' decision not to intervene in this action. The States of California, Colorado, Connecticut, Florida, Georgia, Hawaii, Illinois, Indiana, Louisiana, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Rhode Island, Tennessee, Texas, Vermont, Virginia, and Washington and the District of Columbia further request, pursuant to their respective statutes, that they be served with all filed pleadings and that

should the parties propose to dismiss this action, that the Court solicit the written consent of the Plaintiff States before ruling or granting its approval regarding dismissal. The Florida Assistant Attorney General, on behalf of Maryland, has further represented that the Maryland False Health Claims Act provides that "If the State does not elect to intervene and proceed with the action . . . before unsealing the complaint, the court shall dismiss the action." Md. Code Ann., Health Gen, § 2-604 (a)(7). Accordingly, the State of Maryland requests that all claims asserted on behalf of the State of Maryland be dismissed without prejudice.

Respectfully submitted this the 7th day of ^{August}~~July~~ 2019.

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CERTIFICATE OF SERVICE

I, LANE H. WOODKE, Assistant United States Attorney, hereby certify that on August 7, 2019, I served the foregoing NOTICE OF ELECTION TO DECLINE INTERVENTION by mailing, postage prepaid, true copies of the same to counsel for the Relators and counsel for the States of California, Colorado, Connecticut, Florida, Georgia, Hawaii, Illinois, Indiana, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Rhode Island, Tennessee, Texas, Vermont, Virginia, and Washington and the District of Columbia:

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